

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,
Debtors.¹

PROMESA
Title III

No. 17 BK 3283-LTS
(Jointly Administered)

**AMBAC ASSURANCE CORPORATION'S
(I) STATEMENT CONCERNING MOTION FOR ENTRY OF ORDER EXTENDING
TIME TO ASSUME OR REJECT UNEXPIRED LEASES OF NONRESIDENTIAL
REAL PROPERTY PURSUANT TO BANKRUPTCY CODE SECTION 365(d)(4) AND
(II) JOINDER TO (A) OBJECTION OF THE PBA FUNDS AND
(B) OBJECTION OF THE QTCB NOTEHOLDER GROUP REGARDING SAME**

Ambac Assurance Corporation (“Ambac”), by and through its attorneys, Ferraiuoli LLC and Milbank, Tweed, Hadley & McCloy LLP, hereby submits this (i) statement concerning the *Motion for Entry of Order Extending Time to Assume or Reject Unexpired Leases of Nonresidential Real Property Pursuant to Bankruptcy Code Section 365(d)(4)* [Dkt. No. 1518] (the “Motion”) and (ii) joinder to (a) the *Objection of the PBA Funds to the Motion to Extend Time to Assume or Reject Unexpired Leases* [Dkt. No. 1583] (the “PBA Funds’ Objection”) and (b) the *Objection of the QTCB Noteholder Group to Motion for Entry of Order Extending Time to Assume or Reject Unexpired Leases of Nonresidential Real Property Pursuant to Bankruptcy Code Section 365(d)(4)* [D.I. 1584] (the “QTCB Noteholder Group Objection” and, together with

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); and (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

the PBA Funds' Objection, the "Objections"). In support of its statement and joinder, Ambac respectfully submits as follows:

1. As noted in each of the Objections, no reasonable commercial landlord would act as the Oversight Board² represents the Puerto Rico Public Buildings Authority ("PBA") has acted in purportedly consenting to an extension of time for the Debtors to assume or reject leases of nonresidential real property "through [the] effective date of [a] plan of adjustment for each Debtor." *See* Motion, Exhibit B. Not only has PBA consented to an open-ended extension that effectively surrenders PBA's right to require the Commonwealth to assume or reject hundreds of PBA leases (*see* QTCB Noteholder Group Objection ¶ 15), PBA has failed to demand the rent payments to which it is entitled as a lessor under an unexpired lease under section 365(d)(3) of the Bankruptcy Code (*see* PBA Funds' Objection ¶¶ 11-12).

2. This behavior is of grave concern to Ambac, the insurer of over \$200 million in outstanding principal and interest of bonds issued by PBA and guaranteed by the Commonwealth, and a third-party beneficiary under the resolution governing the PBA bonds. Indeed, this apparent abdication of responsibility by PBA as a landlord with financial obligations to its own creditors and stakeholders is but the latest in a series of similar actions. For months, Ambac has been attempting to work with PBA to facilitate the remarketing of certain of its bonds that was contemplated under agreements PBA entered into at the time Ambac agreed to insure such bonds. A successful remarketing would reduce claims against PBA by virtue of the variable, rather than fixed, interest rate that would attach to the remarketed bonds—a result beneficial both to PBA, as it would lower PBA's interest expense, and to Ambac, which would benefit from the correspondingly reduced exposure. With the bonds being insured by an Ambac

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

financial guaranty insurance policy, and thus more appealing to investors, Ambac believes such a remarketing would succeed and even advised PBA that it could provide support to the remarketing process in furtherance thereof. But despite the attendant benefits and Ambac's offer of assistance, PBA has so far declined to act in accordance with its financial interests.

3. Ambac further joins the Objections in acknowledging that a reasonable extension of time is called for in light of the circumstances in Puerto Rico and the complexity of these cases. *See* PBA Funds' Objection ¶ 13; QTCB Noteholder Group Objection ¶ 22. But an open-ended extension is unwarranted, as it prejudices the rights of Ambac as an insurer, third-party beneficiary, and interested party at PBA, along with the rights of other creditors and stakeholders.

4. Ambac reserves all rights with respect to the relief sought in the Motion, including, but not limited to, the right to pursue any and all remedies with respect to currently outstanding or future rents or other amounts due to PBA and to seek the appointment of a committee or independent fiduciary to represent the interests of the PBA, its creditors, or its other stakeholders.

WHEREFORE, Ambac respectfully requests that the Court deny the Motion.

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Dated: November 7, 2017
San Juan, Puerto Rico

FERRAIUOLI LLC

By: /s/ Roberto Cámara-Fuertes
Roberto Cámara-Fuertes (USDC-PR No. 219002)
Sonia Colón (USDC-PR No. 213809)
221 Ponce de León Avenue, 5th Floor
San Juan, PR 00917
Telephone: (787) 766-7000
Facsimile: (787) 766-7001
Email: rcamara@ferraiuoli.com
scolon@ferraiuoli.com

MILBANK, TWEED, HADLEY & M^cCLOY LLP

By: /s/ Dennis F. Dunne
Dennis F. Dunne
Andrew M. Leblanc
Atara Miller
Grant R. Mainland
(admitted *pro hac vice*)
28 Liberty Street
New York, NY 10005
Telephone: (212) 530-5770
Facsimile: (212) 822-5770
Email: ddunne@milbank.com
aleblanc@milbank.com
amiller@milbank.com
gmainland@milbank.com

Attorneys for Ambac Assurance Corporation

CERTIFICATE OF SERVICE

I hereby certify that, on this same date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notifications of such filing to all CM/ECF participants in this case.

/s/ Roberto A. Cámara-Fuertes

Roberto Cámara-Fuertes (USDC-PR No. 219002)

221 Ponce de León Avenue, 5th Floor

San Juan, PR 00917

Telephone: (787) 766-7000

Facsimile: (787) 766-7001

Email: rcamara@ferraiuoli.com